

**STATE OF NEW MEXICO ENVIRONMENT DEPARTMENT
STORAGE TANK COMMITTEE**

**State Personnel Building
Leo Griego Auditorium
2600 Cerrillos Road
Santa Fe, NM 87505**

DRAFT

Minutes of the July 14, 2008 Meeting

The meeting of the Storage Tank Committee ("Committee") was held at the NM State Personnel Building, Leo Griego Auditorium, Between Camino Carlos Rey & Luana St. next to the Mazda Dealership, Santa Fe, New Mexico 87505 on Monday 14, 2008. Chair Jim Norton called the meeting to order at 10:07 a.m.

Members Present:

Jim Norton, Chair
Ryan Briggs, STC Member
Paul Aguilar, STC Member
Ruben Baca, STC Member
Ronnie Pynes, STC Member

Members Absent:

Joseph Chavarria, STC Member

Other Persons Present:

Jim Davis, NMED/PSTB
John Kovacs, NMED/PSTB
Kalvin Martin, NMED/PSTB
Joyce Shearer, NMED/PSTB
Susan Von Gotten, NMED/EPD
Marlene Cordova, NMED/EPD
Cathy Atencio, NMED/PSTB
Michael Leger, NMED
Lorena Goerger, NMED/PSTB
Jennifer Pruett, NMED/PSTB
Dawn Bascomb, NMED/PSTB
Angela Martinez, NMED/PSTB
Stephen Reuter, NMED/PSTB

David Watner, Western Technologies
Teresa Harris, Tetra Tech
John Stevenson, Tetra Tech
Alan Eschenbacher, Souder, Miller &
Associates
Brad Billings, BAI
Bernie Lauctes, TTEM I
Mike McVey, DBS&A
Mitch & Phyllis Rubenstein, Anassazi
Holding

Item #1 Roll Call

The PSTC Administrator took the roll and noted a quorum was present.

Item #2 Approval of the Agenda

The Chair stated that Mr. Aguilar requested that they move the approval of minutes up after the approval of the agenda; a motion was called to move up Item # 7 up after Item # 2.

Motion:

Mr. Aguilar moved to amend the Agenda

Mr. Pynes seconded. Motion passed unanimously.

Item #3 Approval of Minutes

The Chair asked if there were any changes in the minutes. Since there were no changes to the minutes a motion was called.

Motion:

Mr. Briggs moved to approve the Minutes

Mr. Aguilar seconded. Motion Passed unanimously

Mr. Baca wanted to make a comment that he was really impressed with the detail of the minutes and how they are now being done.

Item #4 Update of Corrective Action Fund:

Jim Davis presented an update on the Corrective Action Fund to the Committee. He started by introducing Ms. Marlene Cordova who started with the Bureau on May 19, 2008. Ms. Cordova manages the Reimbursement Section of the Bureau, which is responsible for the management of the Corrective Action Fund. She is a direct report to Mr. Davis.

Mr. Davis started with an update for the month of March. He called the Committee's attention to the issue of the HB19 30% maximum use of the CAF. The Bureau had identified this for the Committee in both January and March. At those meetings, Mr. Clancy Roberts, Chief Financial Officer, NMED discussed options available to NMED to correct this.

In the upper portion of the March spreadsheet the operating transfer highlighted in red is \$768,400, which was the monthly draw that had been put in place beginning in July of last year (fy08). This was the monthly draw that ended up being slightly higher than the 30%.

March

Beginning Cash - \$ 15,087,811
Loading Fee - \$ 1,078,698.92
Payment - \$ (854,250)
Operating Transfer - \$ 768,400
Ending Cash - \$ 14,545,762

Reserve - \$ 1,000,000
Work plan liabilities - \$ 11,104,692
Un-obligated - \$ 2,441,070

The April spreadsheet shows that the Operating Transfer dropped, so there was a one month reduction in the draw of \$276,250 to correct the amount over the allowed budget of 30%. This reduction in the draw then brought the year long total to the 30%. Also, in April the Bureau identified \$400 that was due from Fund 064 for FY07.

April

Beginning Cash - \$ 14,545,762
Loading fee - \$ 1,967,142.70
Payment - \$ (1,113,307)
Operating Transfer - \$ (492,150)
Ending Cash - \$ 14,909,749

Reserve - \$ 1,000,000
Work plan liabilities - \$ 11,086,107
Un-obligated - \$ 2,823,642

In the May spreadsheet notice that the monthly draw went back up so the reduction was only for the month of April.

May

Beginning Cash - \$ 14,909,749
Loading fee - \$ 1,630,695.95
Payment - \$ (1,150,915)
Operating Transfer - \$ (768,400)
Ending Cash - \$ 14,623,031

Reserve - \$ 1,000,000
Work plan liabilities - \$ 11,011,167
Un-obligated - \$ 2,611,864

End of year reconciliation of the Bureau's operating budget resulted in \$41,000 reverting to the CAF.

Mr. Davis discussed the Budget Adjustment Request (BAR) received by the Bureau on May 6th. The BAR totaled \$2.9 million, with \$2.2 million of additional budget authority for the RP side of the program and \$700,000 increased authority for the State Lead side of the program.

FY08 started on the RP side with a total budget of \$9 million. On the State Lead side the year started with \$3 million, for a total FY08 budget authority of \$12 million. With the additional authority the total for RP was \$11.2 million. If all the claims that were already in the pipeline and received before June 30th as well as claims that were rejected but came back in timely so that they could be paid, the Bureau estimates that out of a total budget of \$11.2 million, all but \$110,000 will be used, which is over 98% of the total budget authority.

The Bureau obligated the increase authority of \$700,000 for State Lead contracts, but Mr. Davis pointed out that these obligations would not materialize this year since the Bureau did not have

this additional authority until May 6. Since many of the State Lead remediation projects are fairly large, requiring the coordination of a variety of sub contractors, the acquisition of permits, and the interaction with other agencies such as the N.M. Department of transportation, these things can not be done very quickly. So receiving the BAR so late in the fiscal year, while the Bureau obligated against it, the work will not materialize in that short a time frame.

June

Beginning Cash - \$ 14,623,031

Loading fee - \$ 0

Payment - \$ (1,433,480)

Operating Transfer - \$ (768,400)

Ending Cash - \$ 14,069,434

Reserve - \$ 1,000,000

Work plan liabilities - \$ 10,525,556

Un-obligated - \$ 2,543,877

The Chair asked if the Committee had any questions

Mr. Baca asked if the monies revert back

Mr. Davis responded that was correct, "We don't lose any money. The cash is in the account. If we don't use it, it stays there. What we lose is budget authority, and of course we want to use as much of our budget authority in any given year as we can so that we're not pushing a wave of obligations into the next year."

The Chair asked Mr. Davis how far ahead can he project what they will need for the Fiscal year so that they can request the monies with enough time to use them.

Mr. Davis responded that that is the trick. The Bureau has started a major scrub of the data base. One of the things the Bureau will look at is the deliverable report, where in a perfect scenario they would be able to anticipate when work would be done and therefore when claims would come in the door. This activity is staggered across all months of the fiscal year. With an accurate and reliable deliverable report it will be possible to more accurately project the need for a BAR.

Mr. Davis also wanted to point out to the committee that the monthly draw beginning this year in July (fy09) will be \$ 737,116.67.

(Handouts provided; see www.nmenv.state.nm.us/pstc for entire monthly report)

Item # 5 Update on Remedial Action Sites

Joyce Shearer, Remedial Action Program Manager, presented a report on Remedial Action Sites and provided spreadsheets for approved work plans.

Work plan approvals for March 2008;

37 RP Workplan approvals: \$ 547,834.38

2 RP Addendums: \$ 55.90
Totaling: \$ 547,890.28

4 SL Workplan, approvals: \$218,658.17

0 SL Addendums: \$ 0.00
Totaling: \$ 218,658.17

Monthly grand total of \$766,548.45

Work plan approvals for April 2008;

19 RP Workplan approvals: \$ 409,997.92

1 RP Addendums: \$ 28.94
Totaling: \$ 410,026.86

4 SL Workplan approvals: \$ 684,690.94

1 SL Addendums: \$ 4.12
\$ 684,695.06

Monthly grand total of \$1,094,721.92

Work plan approvals for May 2008;

19 RP Workplan approvals: \$ 360,458.24

5 RP Addendums: \$ 490.91
Totaling: \$ 360,949.15

16 SL Workplan approvals: \$ 715,026.29

0 SL Addendums: \$ 0
\$ 715,026.29

Mr. Davis stated again that the Bureau did obligate \$700,000 from the BAR in May but it won't be paid out until FY09 fiscal year.

Monthly grand total of \$1,075,975.44

Work plan approvals for June 2008;

9 RP Workplan approvals: \$1,545,579.03

0 RP Addendums: \$ 0
Totaling: \$1,545,579.03

6 SL Workplan approvals: \$ 528,509.31

0 SL Addendums: \$ 0
\$ 528,509.31

Monthly grand total of \$2,074,088.34

The Chair asked if there were any questions from the Committee.

Mr. Aguilar requested that on the spreadsheets provided, he would like the city to be placed next to the site so they have a better understanding of where it is located in the State.

Mr. Baca had a question regarding the Laguna Mart Site; he wanted to know if there was a cooperative agreement on that site.

Ms. Shearer replied that yes, there is an agreement on that site for, a privately operated facility on Tribal land. The agreement was signed in 2002. The Bureau did a large excavation and disposal project there. Most of the contamination was cleaned up, but the Bureau could not dig up the road way through the Pueblo. The contamination was dragged down to very deep levels as a result of pumping on a public supply well nearby. The status on this area now is that they are going to pump and treat the area across from the highway.

Mr. Baca wanted to know if they were using PPL monies to do this clean up

Ms. Shearer responded yes

Mr. Baca wanted to know if the Pueblo was contributing monies, or if a settlement agreement was reached at that time.

Ms. Shearer responded no, the Pueblo is not contributing to cleanup costs.

Mr. Baca stated that the reasons for these questions was that they are still dealing with an ongoing battle with the Tax Department with a lawsuit on this.

Mr. Davis stated that the Bureau has four cooperative agreements with three entities, Laguna, Zuni, and Jicallara. These agreements are very specific for their identified sites.

Mr. Baca asked how many sites we have like this.

Ms. Shearer stated that Jicallaria has two sites one is Tribally operated on private land. The other one is privately-held land privately-operated within the external boundaries of tribal land. Zuni are both on Tribal land and privately-operated. Ms. Shearer stated one site was closed out before the Bureau started collecting the PPL and the other one paid into it.

Mr. Baca wanted to know if any were close out or NFA

Ms. Shearer responded no, all though they are close on one of the Zuni sites.

Mr. Davis added a personnel announcement – the Bureau lost Jeff Mills, a senior technical staff member in Joyce's section, who took another position in a different Bureau of NMED.

Ms. Shearer also introduced a Project Manager, Dawn Bascomb the Committee has not yet met her. Dawn will be leading the Ready for Reuse Program.

The Chair recognized a question from the audience.

Mr. Mitch Rubenstein asked, if there was a way to determine the cost per gallon remediated at all sites that have been done and a list generated to see what is cleaned up. This might be some good general knowledge as we look at these dollars spent on these clean ups.

Mr. Davis responded to Mr. Rubenstein's comment, "Yes, there are a number of way that you can analyze the data, I am always interested in how to pull trends out of them, I welcome the suggestions and ask you to send them to me in a email so that I understand precisely what you are suggesting I am always looking at better ways to manage the money."

Item # 5a Presentation on cleanup Activities at the Grants Triple Site:

Ms. Shearer presented a PowerPoint presentation on site cleanup activities at the Grants Triple Site and explained the process for cleanup.

All this information was followed by a paper handout that went into detail about each of the categories presented. These are attached at the end of the minutes for further review.

Ms. Shearer started off by listing the three sites in Grants New Mexico, Cibola Chevron, former Gil's Shell and former Maverick Country Store #139. They each have individual problems with groundwater and soil plumes. They all were initially being addressed as RP Lead Sites. In 2002, the Department Secretary approved the Bureau's request to move these sites to State Lead status in order to better address subsurface contamination. In 2006 after a RFP process Brown Environmental was awarded the contract.

These are old sites. The site count including those that have been NFA range up to 4500 sites that have come into the Bureau. The Bureau has about a 1000 that are still active. Ms. Shearer stated that a new id is issued every time a new site comes in, in order of when they were reported. These three sites have site id numbers of 907, 308 and 341. So you can tell by the site ID numbers, these are very old sites, and the Bureau hasn't been able to get them cleaned up yet.

Ms. Shearer stated to date on the Cibola Chevron the Bureau has spent \$828,000.00 with an installation of three systems to clean this site up the Bureau will be spending another \$1.5 million before they're done. For the Maverick Site the Bureau has spent close to \$945,000.00. The Gil's Shell site the Bureau has spent close to \$940,000.00.

The Chair thanked Ms. Shearer for the presentation, and went on to say that it really helps the Committee get a better idea of crucial cleanups, and to have the resources available to get this done. Especially those that affect the drinking water in Grants and other places. The Chair asked if there are other projects like this, where there are multiple sites. In the future the Committee would like to see them.

Item # 6 Prevention and Inspection

Mr. Kalvin Martin, Prevention Inspection Program Manager, provided an update on the Prevention and Inspection Program.

Mr. Martin started off by stating that the Bureau had filled an inspector position in Las Cruces that became vacant on April 3, 2008. The Bureau has since filled that position at the end of June. Mr. Martin stated that currently they have no vacancies in his program.

Mr. Martin talked briefly about compliance inspections and the inspections his program has done recently. He stated that the program has started a new inspection priority program in March. The program has performed about 144 compliance inspections of UST active facilities identified as leaking sites that the identified responsible party is the same as the tank owner. Approximately 15 of those inspected facilities are out of compliance and will need further review. Mr. Martin stated the program is maintaining 70% compliance for significant operational compliance requirements that follow EPA compliance. The program is continuing with priorities to ensure that all facilities are inspected every three years, mandated by the 2002 Energy Policy Act.

The Chair asked if there were any questions from the Committee.

Mr. Baca asked if there were any significant issues they were looking for, for compliance.

Mr. Martin responded those are basically compliance issues for release detection and release prevention. Payment of fees would not be considered significant operational compliance.

Item # 7 Update on Regulation Process

Ms. Jennifer Pruett, Tank Fee Manager, introduced her new staff member Angela Martinez who is backup to the front office and helping with rule revisions.

Ms. Pruett updated the Committee about the fee collection program and as of last Friday the program has collected almost \$149,000 and declared \$1,023,000 uncollectable. She stated the program is holding pretty steady at the rate they have been for a couple of years. 13% collectable 87% uncollectable, they are still finding very old fees that they can't collect on. The program has closed out more than 214 cases, more than half of these involved properly closed out facilities with no releases.

Ms. Pruett spoke about the rule revision area (handouts of the new rule books were provided to Committee members and the public). She stated that the program has a Stakeholders meeting scheduled August 12, 2008 in Santa Fe to review conceptual ideas for operator training required by the federal Energy Policy Act., and proposed revisions to corrective action fund administration and some of the remediation requirements. Updates will be posted on the Petroleum Storage Bureau website. The Bureau anticipates having an EIB hearing on those parts

of the rules next spring, with rules effective about the middle of the summer. Changes to the statute are also happening: the same ones the Bureau was not able to pursue last year. The program is scheduled to appear in front of the Interim Committee at the meeting in Carlsbad in September.

Mr. Davis at this time invited the Chair, Mr. Baca and Mr. Aguiar to join them in September when they meet with the Interim Committee in Carlsbad September 15th and 16th.

Ms. Pruett continued with the closeout of accounts receivable for FY08. The program had 56 owners on that list and a 10% error rate in the fees that were assessed of \$2,800. Collected was 89% which was almost \$24,000 and a statistical outstanding amount of zero. This represents one owner with \$125 in fees owed who the Bureau can't locate. Ms. Pruett stated that collections have greatly improved over the prior year accounts receivable. In FY07 the program had 11% error, 79% collected and 10% outstanding with 87 owners. Approximately 935 invoices were sent out for FY09, and the program is still receiving payments. Next meeting the program will have an update as to how much they have brought in for FY09. FY08 has not quite been closed out yet, and they are still working on reconciling that year. Figures will be available for the next meeting.

The last thing Ms. Pruett wanted to report on was that she has been appointed to an EPA Workgroup on Federal rule revisions, to be submitted to EPA. EPA requested proposed changes to the Federal rules on USTs, separate and apart from rules being developed for compliance with. The Energy Policy Act; these concerns the old initial Federal rules for USTs that have not been updated in 20 years. She will be working with about 15 members from around the country.

The Chair asked if there were any questions.

Mr. Baca asked if her new hire was a new created position.

Ms. Pruett responded no, it was a transfer of a position from the Roswell Office.

Item # 8 Other Business

The Chair asked if there was any other business from the Committee members

Mr. Baca requested an update on facilities by county and tank at least twice a year. He stated he has been getting questions from people asking how many tanks are in this area or that. He stated it would be helpful. He would also like to know how many facilities there are total.

The Chair asked Mr. Davis to do an update for the next Storage Tank meeting.

Mr. Baca also asked if the Bureau was ever going to revert back to Tank Notes, at least once a year.

Mr. Davis responded, that it depended on the health of the Bureaus operating budget. He stated the way they used to do Tank Notes was to contract it out. He stated he would resist using his operating budget for that. He also stated that he does take very seriously the need to disseminate information. The Bureau will take a look at this and see what they can do.

Item #9 Next Meeting is to be determined.

After discussion, the Committee decided the next meeting of the Storage Tank Committee will be held in Santa Fe, New Mexico, on Thursday September 25, 2008.

Item #10 Adjournment

The meeting adjourned at approximately 11:33 pm.

Action: Mr. Aguilar moved to adjourn the Meeting.
Mr. Baca seconded.
The motion passed unanimously.

Petroleum Storage Tank Committee Chairman